

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2017

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.7788 of 2017

Elite Matriculation School,
Erwadi - 623 515
Ramanathapuram District,
Rep. by its Correspondent,
M. Mohammed Ali Jinnah,
S/o. Mohammed Ismail

Petitioner

--Vs--

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai - 600 006.
3. The Inspector of Matriculation Schools,
Pudukottai District ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first and second respondents to grant permission to the petitioner school for starting Higher Secondary section with 11th and 12th standards from the academic year 2016-17 under the provisions of Matriculation Code based on the application submitted by the Petitioner School dated 29.04.2016 followed by reminders, following the ratio laid down by this court in Contempt Petition in Cont.Petn(MD).No.1391 of 2015 dated 30.11.2015 and W.A(MD).No.279 of 2016 dated 22.02.2016, within a time frame to be fixed by this court.

For Petitioners : Mr. G. Sankaran

For Respondents : Mr.V. Anandhamurthy
Additional Government Pleader

O R D E R

This writ petition has been filed, directing the first and second respondents to grant permission to the petitioner school for starting Higher Secondary section with 11th and 12th standards from the academic year 2016-17 under the provisions of Matriculation Code based on the application submitted by the Petitioner School dated 29.04.2016 followed by reminders, following the ratio laid down by this court in Contempt Petition in Cont.Petn(MD).No.1391 of 2015 dated 30.11.2015 and W.A(MD). No.279 of 2016 dated 22.02.2016, within a stipulated period.

2. The case of the petitioner is that petitioner-school was constructed based on the plan approval granted by the Executive Authority of Erwadi Village Panchayat under the provisions of Tamil Nadu Panchayat Building Rules, 1997. The school was shifted to the new building in the year 2006 based on the plan approved by the Executive Authority as per the proceedings in O.C. No. C2/1/2005 dated 26.07.2005. The petitioner-school also has obtained a Public Building License, Structural Stability certificate from the competent authority periodically. The school has also obtained Sanitary Certificate from the local body and also 'No Objection Certificate' from the Department of Fire and Rescue periodically. It is stated that there is no other Matriculation school with Higher Secondary standards within 10 kms radius, where the petitioner-school is located. Whiles, the petitioner has submitted an application on April 2016 seeking for permission to upgrade the Matriculation School to Higher Secondary School from the academic year 2016-17 enclosing all the requisite particulars and documents. In pursuant to the same, the third respondent has inspected the school premises and forwarded report to the 2nd respondent for grant of permission to start Higher Secondary course in the petitioner school. However, the second respondent has issued proceedings dated 25.07.2016 returning the proposal for certain compliance. Thereafter, the petitioner-school has complied with the requirements pointed out by the 2nd respondent and represented the compliance report by providing adequate facilities. With reference to the DTCP approval for the building, it is stated by the petitioner that the school was constructed based on the building plan approval granted by Executive Authority of the Village Panchayat. An application for approval of DTCP was also applied for. Subsequently, the 2nd respondent issued another proceedings in Na.Ka.No.1302/A4/2016 dated 20.10.2016 returning the proposal by pointing out certain other requirements to be complied with. At that stage, the petitioner had filed W.P.(MD).No.20329 of 2014 before this court, as the petitioner school did not have plan approval by DTCP. This Court, by its order dated 06.04.2015, held that the department cannot insist upon the building plan approval by DTCP as the Executive Authority of the Panchayat have already

approved a building plan. As against the same, a Writ Appeal in W.A.(MD) No.911 of 2015 was filed by the Department, wherein this Court, by an order 18.08.2015, has modified the order passed in the Writ Petition to the effect that the application of the school for recognition should be considered after getting clarification from the concerned Panchayat or Town & Country Planning Authorities. Thereafter, a contempt petition was filed in this regard in Cont.pet (MD) No.1391 of 2015, wherein this Court has passed orders on 30.11.2015 with further clarification that unless and until the Director of Town and Country Planning, particularly informs the Director of Matriculation Schools that Rule 25 was not followed, the Respondent shall not deny the renewal of recognition for the next year. Accordingly, this Court ought to have passed orders granting permission to the petitioner school for starting 11th and 12th standards from the academic year 2016-2017 without reference to the DTCP approval and based on the plan approval granted by the Executive Authority of Erwadi Village Panchayat. Hence, the petitioner has come forward with this Writ Petition seeking for the aforesaid relief.

3. Heard the learned counsel for the petitioner and also the learned Additional Government Pleader appearing for the respondents.

4. It is stated by the learned counsel appearing for Petitioner school that all the legal requirements pointed out by the authorities have been satisfactorily complied with. The respondents ought to have passed orders granting permission to the petitioner school for starting 11th and 12th standards from the Academic year 2016-17, without reference to the D.T.C.P approval. Since, the authorities have not shown any indulgence, the petitioner has filed this Writ Petition.

5. Pending writ petition, this court have directed the third respondent to visit the petitioner school and file a report of compliance with respect to the norms for starting Higher Secondary section with 11th and 12th standards. Accordingly, the 3rd respondent had visited the school on 15.05.2017 and filed a report.

6. As per the said report all the earlier requirements have been complied with and there is no impediment for the authorities to grant permission for the Petitioner-School for granting Higher Secondary course 11th and 12th standard from the academic year 2016-17, under the provisions of the Matriculation school based on the application dated 29.04.2016.

7. The learned Additional Government Pleader also specifically stated that it is open for the petitioner school to get approval for running 11th and 12th standard in school.

8. In the light of the facts mentioned above, since there is no impediment for the petitioner school for starting the Higher Secondary course i.e., 11th and 12th standard for the academic year 2016-17, the petitioner is directed to re-submit the application in this regard, within a period of one week from the date of receipt of a copy of this order and the respondents are directed to pass appropriate orders, on merits and in accordance with law, within a period three weeks thereafter.

This Writ Petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

nl/arr

To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai - 600 006.
3. The Inspector of Matriculation Schools,
Pudukottai District

+1cc to Mr.G.Sankaran, Advocate in sr.no.41074
+1cc to Government Pleader in sr.no.41010

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